

**ASSEMBLY BILL**

**No. 925**

**Introduced by Assembly Member Richman**

February 20, 2003

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An act to amend Section 42301.14 of the Health and Safety Code, and to amend Section 25550 of the Public Resources Code, relating to powerplants.

LEGISLATIVE COUNSEL'S DIGEST

AB 925, as introduced, Richman. Powerplants: permits.

(1) The existing California Energy Security and Reliability Act of 2000, parts of which are to be repealed on January 1, 2004, authorizes air pollution control districts and air quality management districts to issue permits for operating powerplants. The act provides that those districts may also issue a temporary, expedited, consolidated permit for a thermal powerplant if specified conditions are met.

This bill would reduce the number of conditions a powerplant must meet to qualify for an expedited permit, including deleting the requirement that the powerplant either be modified, replaced, removed, or cease to operate in 3 years. The bill would eliminate the repeal date of those provisions, thereby extending their application indefinitely.

(2) Another provision of the existing act, which is also to be repealed on January 1, 2004, requires the State Energy Resources Conservation and Development Commission to establish a process for the expedited review of applications to construct and operate thermal powerplants and related facilities.

This bill would eliminate the repeal date of those provisions, thereby extending their application indefinitely.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 42301.14 of the Health and Safety Code  
2 is amended to read:  
3 42301.14. (a) To the extent permitted by the federal Clean  
4 Air Act (42 U.S.C. Sec. 7401 et seq.), and notwithstanding Section  
5 65950 of the Government Code, a district may issue a temporary,  
6 expedited, consolidated permit, as provided by Sections 42300.1  
7 and 42301.3, for a powerplant within 60 days after the date of  
8 ~~certification of~~ an environmental impact report *certification*,  
9 within 30 days after ~~the adoption of~~ *adopting* a negative  
10 declaration, or within 30 days after the date of a determination that  
11 the project is exempt from Division 13 (commencing with Section  
12 21000) of the Public Resources Code, if all of the following  
13 conditions are met:  
14 (1) The powerplant will emit less than 5 parts per million of  
15 oxides of nitrogen averaged over a three-hour period.  
16 (2) The powerplant will operate exclusively under the terms of  
17 a contract entered into with the Independent System Operator and  
18 approved by the Electricity Oversight Board established pursuant  
19 to Article 2 (commencing with Section 334) of Chapter 2.3 of Part  
20 1 of Division 1 of the Public Utilities Code.  
21 (3) The owner or operator of the powerplant shall demonstrate  
22 that the powerplant, on average, will displace electrical generation  
23 that produces greater air emissions in the same air basin or in a  
24 basin that causes air pollution transport into that basin.  
25 (4) The powerplant will be interconnected to the grid in a  
26 manner that the Public Utilities Commission, in consultation with  
27 the Electricity Oversight Board, has determined will allow the  
28 powerplant to provide service to a geographical area of the state  
29 that is urgently ~~in need of~~ *needs* generation in order to provide  
30 reliable electric service. However, nothing in this paragraph  
31 affects ~~the authority of~~ the Energy Resources Conservation and  
32 Development ~~Commission~~ *Commission's authority* over  
33 powerplants pursuant to Chapter 6 (commencing with Section  
34 25500) of Division 15 of the Public Resources Code.



(5) The powerplant will be operated at a location that has the necessary fueling and electrical transmission and distribution infrastructure for its operation.

~~(6) The owner or operator of the powerplant enters into a binding and enforceable agreement with the district, and where applicable, with the Energy Resources Conservation and Development Commission, which demonstrates either of the following:~~

~~(A) That the powerplant will cease to operate and the permit will terminate within three years.~~

~~(B) That the powerplant will be modified, replaced, or removed within a period of three years with a combined-cycle powerplant that uses best available control technology and offsets, as determined at the time the combined-cycle plant is constructed, and that complies with all other applicable laws and regulations.~~

~~(7)~~

(6) Where applicable, the owner or operator of the powerplant will obtain offsets or, where offsets are unavailable, pay an air emissions mitigation fee to the district based upon the actual emissions from the powerplant, to the district for expenditure by the district pursuant to Chapter 9 (commencing with Section 44275) of Part 5, to mitigate the emissions from the plant.

~~(8) It is the intent of the Legislature in this section to encourage the expedited siting of cleaner generating units to address peaking power needs. It is further the intent of the Legislature to require local air quality management districts and air pollution control districts to recognize the critical need for these facilities and the short life span of these facilities in exercising their discretionary authority to apply more restrictive air quality regulations than would otherwise be required by law.~~

(b) This section may be utilized for the purpose of expediting the siting of electrical generating facilities pursuant to Chapter 6 (commencing with Section 25500) of Division 15 of the Public Resources Code.

~~(c) This section shall remain in effect only until January 1, 2004, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2004, deletes or extends that date.~~

SEC. 2. Section 25550 of the Public Resources Code is amended to read:

1 25550. (a) Notwithstanding subdivision (a) of Section  
2 25522, and Section 25540.6, the commission shall establish ~~a~~ *an*  
3 *expedited certification process to issue its final certification* for  
4 any thermal powerplant and related facilities ~~within six months~~  
5 ~~after the filing of the application for certification that, on the basis~~  
6 ~~of an initial review, if the certification application, after an initial~~  
7 ~~review by the commission, shows that there is~~ substantial evidence  
8 that the project will not cause a significant adverse impact on the  
9 environment or electrical system and will comply with all  
10 applicable standards, ordinances, or laws. *This expedited*  
11 *certification process shall be completed within six months of the*  
12 *date the certification application is filed.* For purposes of this  
13 section, ~~filing~~ *filed* has the same meaning as in Section 25522.

14 (b) Thermal powerplants and related facilities reviewed under  
15 this process shall satisfy the requirements of Section 25520 and  
16 other necessary information required by the commission, by  
17 regulation, including the information required for permitting by  
18 each local, state, and regional agency that would have jurisdiction  
19 over the proposed thermal powerplant and related facilities, but  
20 for the *commission's* exclusive jurisdiction ~~of the commission~~, and  
21 the information required for permitting by each federal agency that  
22 has jurisdiction over the proposed thermal powerplant and related  
23 facilities.

24 (c) ~~After acceptance of an application is accepted~~ under this  
25 section, the commission ~~shall~~ *is* not ~~be~~ required to issue a  
26 six-month final decision on the application if it determines there  
27 is substantial evidence in the record that the thermal powerplant  
28 and related facilities may result in a significant adverse impact on  
29 the environment or electrical system or does not comply with an  
30 applicable standard, ordinance, or law. Under this circumstance,  
31 the commission shall make its decision in accordance with  
32 subdivision (a) of Section 25522 and Section 25540.6, ~~and without~~  
33 ~~requiring a new application shall not be required.~~

34 (d) For an application that the commission accepts under this  
35 section, all local, regional, and state agencies that would have had  
36 jurisdiction over the proposed thermal powerplant and related  
37 facilities, but for the *commission's* exclusive jurisdiction ~~of the~~  
38 ~~commission~~, shall provide their final comments, determinations,  
39 or opinions within 100 days after ~~the filing of the application is~~  
40 *filed*. The regional water quality control boards, as established

1 pursuant to Chapter 4 (commencing with Section 13200) of  
2 Division 7 of the Water Code, shall retain jurisdiction over any  
3 applicable water quality standard that is incorporated into any final  
4 certification issued pursuant to this chapter.

5 (e) Thermal powerplants and related facilities that demonstrate  
6 superior environmental or efficiency performance shall receive  
7 priority in review.

8 (f) With respect to a thermal powerplant and related facilities  
9 reviewed under the process established by this chapter, it shall be  
10 shown that the applicant has a contract with a general contractor  
11 and has contracted for an adequate supply of skilled labor to  
12 construct, operate, and maintain the plant.

13 (g) With respect to a thermal powerplant and related facilities  
14 reviewed under the process established by this chapter, it shall be  
15 shown that the thermal powerplant and related facilities complies  
16 with all regulations adopted by the commission that ensure that an  
17 application addresses disproportionate impacts in a manner  
18 consistent with Section 65040.12 of the Government Code.

19 (h) This section ~~shall~~ *does* not apply to an application filed with  
20 the commission on or before August 1, 1999.

21 (i) To implement this section, the commission may adopt  
22 emergency regulations in accordance with Chapter 3.5  
23 (commencing with Section 11340) of Part 2 of Division 3 of Title  
24 2 of the Government Code. For purposes of that chapter, including  
25 without limitation, Section 11349.6 of the Government Code, the  
26 adoption of the regulations shall be considered by the Office of  
27 Administrative Law to be necessary for the immediate  
28 preservation of the public peace, health, safety, and general  
29 welfare.

30 ~~(j) This section shall remain in effect until January 1, 2004, and~~  
31 ~~as of that date is repealed unless a later enacted statute, that is~~  
32 ~~enacted before January 1, 2004, deletes or extends that date.~~

